JERSEY COAST ANGLERS ASSOCIATION
Working For the Saltwater Resource and Marine Anglers
1201 Route 37 East, Toms River NJ 08753
Phone 732-506-6565 Fax 732-506-6975
Web Site http://www.jcaa.org

NEW JERSEY FEDERATION OF SPORTSMEN'S CLUBS
Working For The Sportspersons Of New Jersey
PO Box 742, Newfoundland NJ 07435
Phone 973-697-2977 Fax 908-697-8855
Web Site http://www.njsfsc.org/

CONGRESSIONAL TESTIMONY
SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS
By Thomas Fote for
Jersey Coast Anglers Association & New Jersey Federation of Sportsmen's Clubs

Legislative Chairman of JCAA & NJFSC
Thomas P Fote
22 Cruiser Court
Toms River NJ 08753
Phone 908-270 9102 Fax 908-506-6409

My name is Thomas Fote. I am here today representing the Jersey Coast Anglers Association and the New Jersey State Federation of Sportsmen's Clubs. These two organizations are comprised of 150,000 concerned sportsmen and women throughout New Jersey. I would like to thank the Chairman and Committee and its members for this opportunity to testify on this important bill. I would especially like to thank Congressman Frank Pallone and Congressman Jim Saxton for all their hard work on the striped bass issue and in protecting the marine environment.

I am here to support the reauthorization of bill HR 3883. This bill was landmark legislation when it was first passed and still is today. It is the primary reason for one of the greatest success stories in fisheries management along the east coast; the rebuilding of the striped bass stocks from North Carolina to Maine. It is a wonderful example of the positive outcomes that result when state and federal agencies cooperate and work together to rebuild fish stocks. Because of this bill millions of anglers along the coast are catching and eating or releasing striped bass. This would not have happened without this bill.

Why is striped bass so special? Striped Bass is truly the big game fish of the common person. It is one of the few species available to all anglers. A seventy-pound record striped bass can be caught while fishing from banks or piers along a fresh water river or while walking along the beaches from Maine to North Carolina. You can also catch striped bass from boats in rivers, bays or the ocean. You do not need fancy equipment or an expensive boat. You need perseverance, time and motivation.

This bill also provides important research money needed to answer critical questions on the factors influencing the stocks of striped bass. Without this bill these monies would not be available. Here are a couple of the important research projects that this bill supports.

1. The important research is being done on the interrelation of striped bass and bluefish and how this affects the abundance of each. What forage species are needed for both and what levels are essential for a healthy stock? With the move toward ecosystem management this information becomes vital. Last week I attended the Atlantic States Marine Fisheries Commission as one of the three Commissioners from New Jersey. There was intense discussion on the feeding habits of the striped bass in the Chesapeake Bay and how the harvest of menhaden is affecting the striped bass stock. Further study is needed to determine the necessary abundance of menhaden in the Chesapeake Bay for the health of striped bass and other species. I have included an article from the February 2004 JCAA Newspaper.
2. The Cooperative Winter Tagging Cruise has a primary focus of tagging Atlantic migratory striped bass for the Atlantic States Marine Fisheries Commission Amendment 6 management program. This program is contributing to our knowledge of migration and stock size of the many stock components that make up the total striped bass biomass.
3. Kerr Reservoir, VA and NC, 216(b) Study: Both Services field staffs are just beginning years of involvement, with state partners in VA and NC, in studying the opportunities for reducing the impacts of the Corps reservoir's "controlled floods" on spawning and reproduction of the recovered Roanoke River striped bass stock (JAI this year was zero, we believe as a consequence of prolonged, reservoir-induced flooding of the spawning grounds and reduced salinity in downstream nursery areas).
4. The U.S. Army Corps of Engineers has been authorized to mine sand from the wintering habitat of the Atlantic coast striped bass migratory stock. The Corps has contracted for pre- and post-project monitoring, but additional work is needed to thoroughly document striped bass habitat use and impacts of the mining in nearshore Atlantic Ocean waters.
5. Analysis of Striped Bass Tag Return Database: FWS maintains the database for tag returns in its Annapolis, MD, Fisheries Resources Office. Data are analyzed annually by ASMFC for mortality estimation.

In addition to my concerns about the reauthorization of the HR3883 (the Atlantic Striped Bass Conservation Act) I am also concerned about other issues that impact on the striped bass population. Certainly one of these concerns is the possible opening of the EEZ. I testified before this committee in 1997 on this very issue. The facts that I presented at that time have not changed. Any opening of the EEZ could have both an immediate and long term negative impact on the recovery and availability of striped bass. Since 1996 Amendment 6 was passed and this will allow for the increased commercial harvest of striped bass along the coast. It also allows for states to implement existing rules and relax their previously more conservative regulations for recreational anglers. There is great concern about the recreational community that we are close to overharvesting or exceeding the targets of striped bass. We will not know the impact of these changes for another two or three years when Amendment 6 is fully implemented. To open the EEZ at this time would be premature and could jeopardize a 20 year recovery. Remember, the vote to open the EEZ was not supported by a majority of the states. It took the vote of the federal agencies to get this included in Amendment 6.

New Jersey, Pennsylvania and Delaware are very concerned about Amendment 6. Amendment 6 does not spell out what needs to happen in a producing area. By leaving this important topic open to

interpretation, many disagreements have arisen. There has always been an understanding among striped bass managers that producing areas present unique problems and concerns. This is where fish congregate to spawn and are the most vulnerable. Most producing areas were closed during spawning season to provide additional protection. However, by doing that management plans eliminated the harvest of the more mature migratory fish by the anglers who live and fish in the producing areas. Special regulations were designed to compensate these anglers while continuing to provide some protection for the spawning stocks. Every year managers determine how many of the Chesapeake Bay striped bass should be harvested out of the total spawning stock biomass. Because of management measures, 50% of this available harvest is taken within Chesapeake Bay. The remaining 50% is allocated to the coastal fishery. This is accomplished by allowing the harvest of smaller fish in Chesapeake Bay before they migrate along the coast. This particular scenario was never implemented in the other two producing areas: Hudson River and Delaware Bay. Under Amendment 5 the baseline for calculating harvest was 20 inches in any of the producing areas and 28 inches along the coast. New Jersey, Pennsylvania and Delaware never fully took advantage of the producing area status and generally maintained more conservative regulations. In 1998 we implemented a slot limit of one fish at 24 – 28 inches to allow the anglers who gave up fishing during the spawning season a chance to harvest a fish for personal consumption. Even after relaxing the regulations these three states were only harvesting 27% instead of 50% of those striped bass allowed for in their producing area that year. Amendment 6 penalizes the anglers that fish the Delaware River, Delaware Bay and the Hudson River. Since we keep the area closed while the fish are spawning, the only opportunity anglers have to harvest fish is if we allow for the harvest of smaller fish. Under Amendment 6 anglers from Pennsylvania, New Jersey and Delaware are told to keep the spawning areas closed but receive no benefits for this action. We are told to give up our opportunity to fish only to provide more fish for coastal areas. New Jersey has been pushing for a change or clarification of Amendment 6 which would not penalize our anglers. At this time there has not been a satisfactory resolution to this problem.

There is still an ongoing problem of bycatch of striped bass in other fisheries. This problem became most clear in the spiny dogfish fishery. That fishery is almost closed but could reopen again at a later time. What has come to our attention is the bycatch of striped bass in the New England multispecies trawl fishery. JCAA and NJSFSC would like to thank Oceana for putting together the information on the striped bass bycatch in this fishery. In the three pages from Ocean that are included in this testimony the problem is discussed at length. Oceana uses observer data to estimate bycatch of striped bass. Oceana states, "Assuming that between 2 and 3 percent of all trips were observed and that the behavior and catch of the observed vessels is indicative of the catch and behavior of the multispecies trawl fishery as a whole this information yields estimates of striped bass bycatch of between 1.4 and 2.15 million pounds." These figures show that it is possible that the New England bycatch is greater than the commercial catch of Massachusetts, New York and Rhode Island combined. Something must be done to reduce the bycatch in the New England multispecies trawl.

In closing I would like to say that the Atlantic States Marine Fisheries Commission has done a great job in managing the rebuilding of the striped bass stocks. This would not have happened without the HR3883 and the money it allocates. Since this is one of the most important species from North Carolina to Maine, it is imperative that the original intent and funding continue. Thank you for your time and consideration. I would be happy to respond to any questions you may have.

Sincerely
Thomas Fote

Atlantic Menhaden News
By Ed Cherry

The National Coalition for Marine Conservation has prepared a recommendation to amend the Atlantic Menhaden Fishery Management Plan. The paper is too long to include in our newspaper in its entirety. I have prepared a summary that is included in this newspaper. If you are interested in this topic, the entire document is posted on the JCAA website, http://www.JCAA.org.

A Recommendation to Amend the Atlantic Menhaden Fishery Management Plan To Protect and Preserve Menhaden's Ecological Role in Chesapeake Bay and Throughout its Range

Presented to the Atlantic States Marine Fisheries Commission byDecember 17, 2003 by the National Coalition for Marine Conservation

"In the long run, I look forward to the day when fishery conservation and management are carried out with full knowledge of the interactions between the managed species and the living and nonliving components of their environment. I believe we are making steady progress toward the goal of an ecosystem approach to management.

"In recent years, we have begun to move away from single species concepts of management, like maximum sustainable yield, and toward the multispecies concept of optimum yield. Optimum yield encourages the consideration of ecological factors in devising management strategies, as well as economic and social factors. Within a few years, I expect that most fishery management plans prepared by the Regional Fishery Management Councils will be multispecies plans, which will take into account predator-prey relationships in particular. Not too long after that, I hope we will use an ecosystem approach to fishery management."

This statement was part of the keynote remarks by then-NOAA Administrator Richard Frank at a Striped Bass Symposium sponsored by the National Coalition for Marine Conservation in March 1980.

In spite of Dr. Frank's optimism, we've only begun to take the first tentative steps toward an ecosystem approach to managing marine fisheries during the last several years, primarily due to the recommendations of the 1999 Report to Congress of the Ecosystems Principles Advisory Panel. In many respects, we are today only marginally closer to making ecosystem-based fishery management a reality than we were 23 years ago.

Recommendation

The National Coalition for Marine Conservation respectfully urges the Atlantic Menhaden Management Board to initiate the process of amending the Interstate Fishery Management Plan for Atlantic Menhaden to address concerns about the diminished ecological role of menhaden, on a regional as well as coastwide basis, with the goal of incorporating, as necessary, new objectives, reference points and management measures designed to protect and preserve the sustainability of the menhaden resource and associated species and the fisheries that depend on them**.**

Clear and Compelling Signs of Trouble

In Chesapeake Bay, predator demand is reaching unprecedented highs while available prey is at an all-time low.

A growing number of conservationists and biologists believe the continued high level of menhaden harvest in the Bay, if not curtailed, could jeopardize the hard-earned recovery of striped bass and other species, while hindering efforts to clean up the Bay environment. The situation practically cries out for an ecosystem-based approach to management but, although well-intentioned moves are being made in this direction, the system moves without urgency while we continue to manage without caution.

The evidence of an existing or pending ecological crisis in Chesapeake Bay and beyond is circumstantial but nonetheless compelling.

- The harvest of Atlantic menhaden, a stock found from Maine to Florida, has become more and more concentrated within Chesapeake Bay. Since 1997, 58% of the entire East Coast catch (by weight; nearly 70% by numbers of fish) has been taken from waters of the Bay.
- The Chesapeake is the striped bass' main spawning ground. Possibly as much as 90% of the coastal migratory population breeds there.
- The spatial consolidation of the menhaden reduction fishery in the Bay has coincided with the return of striped bass, a key predator, and beginning in 1990.

- The numbers of striped bass and other consumers of menhaden (bluefish and gray trout, as well several species of water birds among them) have increased dramatically as a result of concerted efforts to rebuild previously depleted populations. As a result, total demand for prey is now at a level not experienced for decades, and growing.
- The number of adult striped Bass is still on the rise, desirably so, as we seek a more stable age-structure in the population. For large adult striped bass, the most prolific egg-producers and thus the key to a sustainable fishery for the future, immature menhaden are the preferred prey. The diet of mature bass typically consists of 70-80% menhaden, primarily sub-adult fish (< than age 3).
- Nearly 9 of 10 menhaden harvested by the purse seine (reduction) fishery are of prime forage size. Last year, for example, 73% of the menhaden catch in Chesapeake Bay was sub-adult fish (age 0-2).
- Juvenile menhaden abundance has been in decline since 1990 and is currently at an all-time low.
- Chesapeake Bay historically has produced nearly half (47%) of each new generation of menhaden for the coastwide stock. Indices of juvenile abundance are poorest in the Bay.
- The number of loons, osprey and other water birds nesting in the Bay or stopping there during their coastal migrations is down from a decade ago. Some scientists speculate the reason for the decline may be a lack of small menhaden.
- The catch of underweight or "skinny" rockfish has been commonplace since the early days of the comeback in the mid-1990s. Samples collected from the Bay have confirmed that on average bass carry only 10-25% of the body fat typically found in healthy fish.
- The reduced length-to-weight ratio strongly suggests poor nutritional health among the Bay's striped bass population. There are indications bass are feeding more on alternative and less nutritious prey, namely bay anchovy and blue crab, which are themselves at historical low supplies.
- Up to half the Bay's striped bass are infected with mycobacterium, a chronic wasting disease that scientists believe is stress-related and could be linked to malnutrition and/or poor water quality. The disease, rare in wild fish, first appeared in 1997 and has been increasing in frequency and severity ever since. It now has been detected in the coastal population as well.
- Oxygen-sucking, fish-killing algae blooms are turning more and more of Chesapeake Bay into dead zones, devoid of life. The number and size of such areas in the Bay has reached alarming levels. Excess nutrients, mainly nitrogen and phosphorous in run-off from farmland and inadequate wastewater treatment plants, produce the blooms that cut off life-giving light to seagrasses on the bottom then suck the oxygen out of the water when they decompose. Fish and crabs either go elsewhere or die.
- Menhaden are a principal filter feeder of the Bay's waters, second only to oysters, which are virtually extinct. Menhaden control nutrient levels through grazing and transfer into fish tissue and make energy available for consumption by predators. Scientists recognize the potential to control water quality by regulating removals of menhaden.

The present menhaden management program does not accommodate consideration of these and other concerns. It features no process for assimilating this information into the stock assessment or informing management decisions.

Needed: A Precautionary Approach

To this end, the National Coalition for Marine Conservation urges the Atlantic States Marine Fisheries Commission to amend the Interstate Fishery Management Plan for Atlantic Menhaden in four ways:

1. Make preservation of an adequate supply of menhaden as forage for predators and as a critical filter feeder of coastal waters, on a coastwide and regional (e.g., Bay-wide) basis, the primary plan objective.

2. Expand the FMP's information base to more fully describe and comprehend the links among associated species, incorporating all available information on ecosystem health and integrity.
3. Add a definition of "ecosystem overfishing" as an alternative to traditional overfishing criteria.

4. Establish a conservative, precautionary total allowable catch (TAC) that provides a suitable buffer against ecosystem overfishing, with appropriate measures to control the harvest of immature menhaden and disperse effort away from nursery areas.

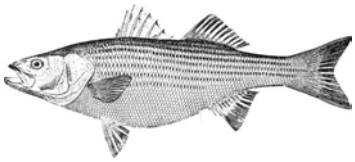
The ASMFC, by choosing not to regulate the harvest of menhaden, has neglected the ecological consequences of overfishing. In turn, it has relegated management responsibility for menhaden to the individual states. In the absence of interstate guidance, a number of states have been forced to act unilaterally, without benefit of a coherent and cohesive coastwide *plan*. Adoption of such a plan, as recommended above, will require a restructuring of the fishery *and* of the current regulatory system.

Interstate management measures adopted under the Menhaden FMP should:

1. Substantially reduce the overall catch of menhaden;
2. Disperse effort throughout the range of the fish as befits a coastwide stock; and,
3. Strictly limit the harvest of sub-adult menhaden (age 0-2), with emphasis on protecting the forage base within Chesapeake Bay.

The amendment process should examine, and submit for public review and comment, a wide range of options for achieving these management objectives, including seasonal or year-round closure of menhaden nursery areas.

Bycatch of Atlantic Striped Bass in the New England Multispecies Trawl Fishery



At-sea sampling data from May 2002 through April 2003 in the Northeast Multispecies fishery reveals that 43,000 pounds of striped bass was discarded[1].

Assuming that between 2 and 3 percent of all trips were observed[2] and that the behavior and catch of the observed vessels is indicative of the catch and behavior of the Multispecies trawl fishery as a whole this information yields estimates of striped bass bycatch of between 1.4 and 2.15 million pounds.

Sample Calculations of estimates-

43,000 pounds observed bycatch/ 3 percent coverage= **1.433 Million pounds**

43,000 pounds observed bycatch/ 2 percent coverage= **2.15 Million Pounds**

If observer coverage is assumed to be only 1 percent, the estimate of striped bass bycatch is substantially higher, surpassing 4 million pounds.

43,000 pounds observed bycatch/1 percent coverage= **4.3 Million Pounds**

The small sample size and impact of 'observer effect' on the observer data related to the NE Multispecies fishery may significantly impact the true nature of this bycatch problem. True assessment of total bycatch may be significantly higher than estimated here. Observer coverage of 20% is necessary to accurately assess bycatch of commonly caught species[3].

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[1] Northeast Fisheries Science Center (2003). Summary Report provided to Oceana in response to Freedom of Information Act request.

[2] National Marine Fisheries Service, National Observer Program, (2003) Northwest Atlantic Regional Program Summary, http://www.st.nmfs.gov/st1/nop/regions/NER_SFA.html

[3] Babcock, Elizabeth, Ellen Pikitch, and Charlotte Hudson, "How much observer coverage is enough to adequately estimate bycatch?" (2003). http://northamerica.oceana.org/uploads/BabcockPikitchGray2003FinalReport.pdf

OCEANA

2501 M STREET NW, SUITE 300 WASHINGTON, DC 20037 202.833.3900 WWW.OCEANA.ORG

February 27, 2004

Ms. Pat Kurkul
Regional Administrator
Northeast Region
NOAA Fisheries
One Blackburn Drive
Gloucester, MA 01930-2298

Mr. David Borden, Chairman
New England Fishery Management Council
50 Water St., Mill 2
Newburyport, MA 01950

Via Facsimile (978) 281–9135

Re: Supplemental Comments on Amendment 13 to the New England Multispecies (Groundfish) Fishery Management Plan and the Accompanying Environmental Impact Statement, Comments on Bycatch of Striped Bass

Thank you for the opportunity to submit these comments on Amendment 13 to the Northeast Multispecies Fishery Management Plan and its accompanying Environmental Impact Statement. Please accept this letter to supplement Oceana's comments which addressed habitat impacts and bycatch monitoring and mitigation, to allow Oceana to address a separate issue that has arisen related to the Northeast Multispecies fishery: the bycatch of migratory striped bass.

The migratory routes and seasonal aggregation sites of Atlantic striped bass in New England overlap a large proportion of the affected area of the Northeast Multispecies fishery. Since the late 1990's reports from recreational and commercial fishers have recognized areas in New England in which bycatch of striped bass in the Multispecies fishery was occurring. Reports from the Great South Channel and Phelps Bank areas further to the south have reported aggregations of dead striped bass in the wake of trawl vessels. The widespread seasonal interactions between these fisheries was only reported anecdotally by recreational and commercial fishers until 2002.

With increased at-sea observer coverage in the 2002 fishing year bycatch of striped bass became officially documented. A review of NMFS observer summary reports from the increased observer coverage indicates that the problem of striped bass bycatch is a very real and large threat to the striped bass resource[4]. A rough estimate of bycatch of striped bass in the Northeast trawl fishery for the period from May, 2002- April 2003 is between 1.4 and 2.4 million pounds.[5] Although this estimate is based on a level of observer coverage recommended by the New England Fishery Management Council that has been deemed insufficient by recent scientific study[6], it is indicative of a bycatch phenomenon in the Multispecies fishery that must be addressed by the forthcoming

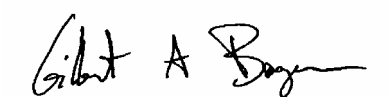
[4] Northeast Fisheries Science Center (2003). Summary Report provided in response to Freedom of Information Act request.
[5]The data provided by the Northeast observer program indicate that approximately 43,000 pounds of striped bass were discarded in the Northeast trawl fishery from May 2002 through April, 2003. Using assumption of between 1 and 3 % observer coverage during this time yields the range of 1.4 and 2.4 million pounds of discarded striped bass.
[6] Babcock, Elizabeth, Ellen Pikitch, and Charlotte Hudson, "How much observer coverage is enough to adequately estimate bycatch?" (2003). http://northamerica.oceana.org/uploads/BabcockPikitchGray2003FinalReport.pdf

amendment 13 rule. Additionally, this estimate only represents the data provided by the trawl sector and does not address the other sectors of the Multispecies such as sink gillnets which have been linked to significant bycatch in other regions, potentially compounding the underestimate of the bycatch.

Please use the opportunity that amendment 13 presents to take immediate action to address the bycatch of striped bass in the New England Multispecies fishery. Action related to your review of Amendment 13 can create management measures such as seasonal closures and gear restrictions that will reduce this seasonal bycatch problem. Additionally direction given to the at-sea observer program to closely monitor and report striped bass bycatch will ensure more accurate and precise management of this problem in the future.

Striped bass represents a glowing success story for America's fishery management program. The species provides recreation and enjoyment to thousands of anglers from the Carolinas to New England. It would be a shame to knowingly allow this resource to be wasted by the mismanagement of another fishery.

Thank you for your attention to this matter,



Gilbert Brogan
Oceana New England
Mystic, CT